

House Study Bill 82

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to criminal acts, records, and proceedings,
2 including interference with judicial acts, deferred judgments,
3 donations and contributions in a criminal proceeding, and
4 providing a penalty.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1405XD 83
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1 1 Section 1. NEW SECTION. 720.7 INTERFERENCE WITH JUDICIAL
1 2 ACTS == PENALTY.
1 3 1. As used in this section:
1 4 a. "Court employee" means the same as defined in section
1 5 602.1101.
1 6 b. "Judicial officer" means the same as defined in section
1 7 602.1101.
1 8 c. "Family member" means a spouse, son, daughter, brother,
1 9 sister, uncle, aunt, first cousin, nephew, niece, grandfather,
1 10 grandmother, father-in-law, mother-in-law, son-in-law,
1 11 daughter-in-law, brother-in-law, sister-in-law, father,
1 12 mother, stepfather, stepmother, stepson, stepdaughter,
1 13 stepbrother, stepsister, half brother, or half sister.
1 14 2. A person who harasses a judicial officer, court
1 15 employee, or a family member of a judicial officer or a court
1 16 employee in violation of section 708.7, with the intent to
1 17 interfere with or improperly influence, or in retaliation for,
1 18 the official acts of a judicial officer or court employee,
1 19 commits an aggravated misdemeanor.
1 20 Sec. 2. NEW SECTION. 901.11 DONATIONS == PROHIBITED.
1 21 A monetary or property donation to any person or entity,
1 22 including a political subdivision, government agency, entity,
1 23 official, school, or charitable organization, is prohibited as
1 24 a part of any dismissal, plea, sentence, plan of restitution,
1 25 or other penalty.
1 26 Sec. 3. Section 907.9, subsection 4, Code 2009, is amended
1 27 to read as follows:
1 28 4. At the expiration of the period of probation if the
1 29 fees imposed under section 905.14 and court debt collected
1 30 pursuant to section 602.8107 have been paid, the court shall
1 31 order the discharge of the person from probation. If portions
1 32 of the court debt remain unpaid, the person shall establish a
1 33 payment plan with the clerk of the district court or the
1 34 county attorney prior to the discharge. The court shall
1 35 forward to the governor a recommendation for or against
2 1 restoration of citizenship rights to that person upon
2 2 discharge. A person who has been discharged from probation
2 3 shall no longer be held to answer for the person's offense,
2 4 except for any unpaid court debt as defined in section
2 5 602.8107. Upon discharge from probation, if judgment has been
2 6 deferred under section 907.3, the court's criminal record with
2 7 reference to the deferred judgment shall be ~~expunged.~~ ~~The~~
2 8 ~~record maintained by the state court administrator as required~~
2 9 ~~by section 907.4 shall not be expunged sealed except as~~
2 10 ~~provided in section 907.4, unless the defendant has unpaid~~
2 11 ~~court debt as defined in section 602.8107 in the case that~~
2 12 ~~includes the deferred judgment.~~ The court's record shall not
2 13 be ~~expunged sealed~~ in any other circumstances.
2 14 Sec. 4. Section 907.13, subsection 2, Code 2009, is
2 15 amended to read as follows:
2 16 2. The defendant's plan of community service, the comments
2 17 of the defendant's probation officer, and the comments of the

2 18 representative of the judicial district department of
2 19 correctional services responsible for the unpaid community
2 20 service program, shall be submitted promptly to the court.
2 21 The court shall promptly enter an order approving the plan or
2 22 modifying it. Compliance with the plan of community service
2 23 as approved or modified by the court shall be a condition of
2 24 the defendant's probation. The court thereafter may modify
2 25 the plan at any time upon the defendant's request, upon the
2 26 request of the judicial district department of correctional
2 27 services, or upon the court's own motion. ~~As an option for~~
~~2 28 modification of a plan, the court may allow a defendant to~~
~~2 29 complete some part or all of the defendant's community service~~
~~2 30 obligation through the donation of property to a charitable~~
~~2 31 organization other than a governmental subdivision. A~~
~~2 32 donation of property to a charitable organization offered in~~
~~2 33 satisfaction of some part or all of a community service~~
~~2 34 obligation under this subsection is not a deductible~~
~~2 35 contribution for the purposes of federal or state income~~
~~3 1 taxes.~~

3 2 Sec. 5. Section 910.1, subsection 4, Code 2009, is amended
3 3 to read as follows:

3 4 4. "Restitution" means payment of pecuniary damages to a
3 5 victim in an amount and in the manner provided by the
3 6 offender's plan of restitution. "Restitution" also includes
3 7 fines, penalties, and surcharges, ~~the contribution of funds to~~
~~3 8 a local anticrime organization which provided assistance to~~
~~3 9 law enforcement in an offender's case,~~ the payment of crime
3 10 victim compensation program reimbursements, payment of
3 11 restitution to public agencies pursuant to section 321J.2,
3 12 subsection 9, paragraph "b", court costs including
3 13 correctional fees approved pursuant to section 356.7,
3 14 court-appointed attorney fees ordered pursuant to section
3 15 815.9, including the expense of a public defender, and the
3 16 performance of a public service by an offender in an amount
3 17 set by the court when the offender cannot reasonably pay all
3 18 or part of the court costs including correctional fees
3 19 approved pursuant to section 356.7, or court-appointed
3 20 attorney fees ordered pursuant to section 815.9, including the
3 21 expense of a public defender.

3 22 Sec. 6. Section 910.2, Code 2009, is amended to read as
3 23 follows:
3 24 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY
3 25 SENTENCING COURT.

3 26 1. In all criminal cases in which there is a plea of
3 27 guilty, verdict of guilty, or special verdict upon which a
3 28 judgment of conviction is rendered, the sentencing court shall
3 29 order that restitution be made by each offender to the victims
3 30 of the offender's criminal activities, to the clerk of court
3 31 for fines, penalties, surcharges, and, to the extent that the
3 32 offender is reasonably able to pay, for crime victim
3 33 assistance reimbursement, restitution to public agencies
3 34 pursuant to section 321J.2, subsection 9, paragraph "b", court
3 35 costs including correctional fees approved pursuant to section
4 1 356.7, or court-appointed attorney fees ordered pursuant to
4 2 section 815.9, including the expense of a public defender,
4 3 when applicable, ~~or contribution to a local anticrime~~
~~4 4 organization.~~ However, victims shall be paid in full before
4 5 fines, penalties, ~~and~~ surcharges, crime victim compensation
4 6 program reimbursement, public agencies, court costs including
4 7 correctional fees approved pursuant to section 356.7, and
4 8 court-appointed attorney fees ordered pursuant to section
4 9 815.9, including the expenses of a public defender, ~~or~~
~~4 10 contributions to a local anticrime organization~~ are paid. In
4 11 structuring a plan of restitution, the court shall provide for
4 12 payments in the following order of priority: victim, fines,
4 13 penalties, ~~and~~ surcharges, crime victim compensation program
4 14 reimbursement, public agencies, court costs including
4 15 correctional fees approved pursuant to section 356.7, and
4 16 court-appointed attorney fees ordered pursuant to section
4 17 815.9, including the expense of a public defender, ~~and~~
~~4 18 contribution to a local anticrime organization.~~

4 19 2. When the offender is not reasonably able to pay all or
4 20 a part of the crime victim compensation program reimbursement,
4 21 public agency restitution, court costs including correctional
4 22 fees approved pursuant to section 356.7, or court-appointed
4 23 attorney fees ordered pursuant to section 815.9, including the
4 24 expense of a public defender, ~~or contribution to a local~~
~~4 25 anticrime organization,~~ the court may require the offender in
4 26 lieu of that portion of the crime victim compensation program
4 27 reimbursement, public agency restitution, court costs
4 28 including correctional fees approved pursuant to section

4 29 356.7, or court-appointed attorney fees ordered pursuant to
4 30 section 815.9, including the expense of a public defender, or
~~4 31 contribution to a local anticrime organization~~ for which the
4 32 offender is not reasonably able to pay, to perform a needed
4 33 public service for a governmental agency or for a private
4 34 nonprofit agency which provides a service to the youth,
4 35 elderly, or poor of the community. When community service is
5 1 ordered, the court shall set a specific number of hours of
5 2 service to be performed by the offender which, for payment of
5 3 court-appointed attorney fees ordered pursuant to section
5 4 815.9, including the expenses of a public defender, shall be
5 5 approximately equivalent in value to those costs. The
5 6 judicial district department of correctional services shall
5 7 provide for the assignment of the offender to a public agency
5 8 or private nonprofit agency to perform the required service.

5 9 EXPLANATION

5 10 This bill relates to interference with judicial acts,
5 11 deferred judgments, donations and contributions in a criminal
5 12 proceeding, and provides a penalty.

5 13 Under the bill, a person who harasses a judicial officer,
5 14 court employee, or a family member of a judicial officer or
5 15 court employee in violation of Code section 708.7, with the
5 16 intent to interfere with or improperly influence, or in
5 17 retaliation for, the official acts of a judicial officer or
5 18 court employee, commits an aggravated misdemeanor.

5 19 Under the bill, a person who receives a deferred judgment
5 20 shall not have the person's criminal record in the case sealed
5 21 until the person has paid any court debt as defined in Code
5 22 section 602.8107 in the deferred judgment case.

5 23 Under current law, a person who receives a deferred
5 24 judgment and who is discharged from probation shall have the
5 25 criminal record in the deferred judgment case expunged.

5 26 In addition, under current law, a permanent record of a
5 27 deferred judgment is maintained pursuant to Code section
5 28 907.4, even if the record is expunged, in order to determine
5 29 if a defendant has received a previous deferred judgment.

5 30 The bill also prohibits any donation to an agency, person,
5 31 charitable organization, political subdivision of the state,
5 32 or other entity as part of any dismissal, plea, sentence, plan
5 33 of restitution, or other criminal penalty. The bill
5 34 eliminates a provision allowing a criminal defendant to make a
5 35 donation in lieu of performing community service. The bill

6 1 also eliminates provisions allowing a contribution by a
6 2 criminal defendant to a local anticrime organization as part
6 3 of the offender's restitution plan.

6 4 An aggravated misdemeanor is punishable by confinement for
6 5 no more than two years and a fine of at least \$625 but not
6 6 more than \$6,250.

6 7 LSB 1405XD 83

6 8 jm/nh/5.1